

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 2351 of 2006(E)

PETITIONERS:

1. K.K.VARGHESE, S/O.KURUVILA,
AGED 68 YEARS, KOTTOOR HOUSE,
'KANAYATTIL', WARRIAM ROAD, KOCHI-16.
2. ANNU VARGHESE, W/O.K.K.VARGHESE,
KOTTOOR HOUSE, 'KANAYATTILL', WARRIAM ROAD,
KOCHI-16.
3. SURESH VARGHESE,
S/O.K.K.VARGHESE, KOTTOOR HOUSE, 'KANAYATTIL',
WARRIAM ROAD, KOCHI-16, REPRESENTED BY HIS POWER
OF ATTORNEY HOLDER K.K.VARGHESE, KOTTOOR HOUSE,
'KANAYATTIL', WARRIAM ROAD, KOCHI-16.
4. ARUN VARGHESE,
S/O.K.K.VARGHESE, KOTTOOR HOUSE,
'KANAYATTIL', WARRIAM ROAD, KOCHI-16.
5. SHEELU SURESH, W/O.SURESH VARGHESE,
KOTTOOR HOUSE, 'KANAYATTIL', WARRIAM ROAD,
KOCHI-16, REPRESENTED BY HER POWER OF ATTORNEY
HOLDER ARUN VARGHESE, KOTTOOR HOUSE, 'KANAYATTIL',
WARRIAM ROAD, KOCHI-16.
6. ROSA ARUN, W/O.ARUN VARGHESE,
KOTTOOR HOUSE, 'KANAYATTIL', WARRIAM ROAD,
KOCHI-16.

BY ADV. SRI.P.RADHAKRISHNAN (1)
SRI.MADHU RADHAKRISHNAN
SRI.BENOJ C AUGUSTIN

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DIVISIONAL FOREST OFFICER,
MUNNAR DIVISION,
DEVIKULAM.P.O.

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3. THE DIVISIONAL OFFICER,
SANDALWOOD DIVISION, MARAYOOR,
IDUKKI DISTRICT.

BY SPL. GOVERNMENT PLEADER SRI.RENJITH THAMPAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX (WP(C) NO.2351 OF 2006)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the letter dtd.3.1.2005 sent by R2 to 1st petitioner.

Ext.P2: Copy of the notice dtd.24.1.2005 issued by R2 to the R.D.O.

Ext.P2(a): Copy of the letter dtd.0.2.2005 issued by R.D.O.to R2.

Ext.P3: Copy of the letter dtd.28.2.2005 issued by R2.

Ext.P4: Copy of the letter dtd.21.6.2005 issued by R2.

RESPONDENTS' EXHIBITS:

Ext.R1(a): Copy of Deposition (as 313 Statement) of 1st petitioner.

Ext.R1(b): Copy of Judgment dtd.13.12.2002 in C.C.40/2001 of the Judicial First Class Magistrate, Devikulam.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO. 2351 OF 2006 - E

Dated this the 2nd day of August, 2007

J U D G M E N T

The petitioners claim to be the owners of certain properties from which sandal wood trees have been cut, which have been taken over by the Forest authorities and sold. The petitioners now submit that being the owners of the properties from which the sandal wood trees have been cut, they are entitled to 70% of the sale value. The petitioners submit that going by the documents produced by them before this Court, it is abundantly clear that the first petitioner as the Power of Attorney Holder of all the other petitioners is entitled to receive the said amount and according to them, by Ext.P3 letter of the Divisional Forest Officer, they have been so directed to receive the amount by producing a Power of Attorney. The petitioners submit that in spite of recognising their rights to receive the amount, the amount is not being paid.

2. Several counter affidavits have been filed in

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this Court by the respondents. The right of the owners of the properties from which the sandal wood trees have been cut to receive 70% of the sale value is not disputed. The dispute is only regarding the owners who are entitled to receive the same.

3. According to the learned Special Government Pleader (Forests), the first petitioner against whom criminal cases were charged for cutting the trees in question, gave a statement under Section 313 of the Code of Criminal Procedure before the criminal court to the effect that he does not own any property in the place from where the trees have been cut. The learned Government Pleader (Forests) would further submit that it is on that basis that the petitioners have been acquitted in the criminal case. Of course, this is disputed by learned counsel for the petitioners.

4. I am not inclined to go into the controversy now. Now the appropriate authority has to decide as to who is entitled to receive the amount insofar as there is no dispute as to the entitlement of owners of the properties

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to receive the amount. In the above circumstances, the third respondent, who is stated to be the appropriate authority to decide the matter, is directed to pass final orders regarding the person/persons who are entitled to receive 70% of the sale value of the sandal wood trees, as expeditiously as possible, at any rate within a period of two months from the date of receipt of a copy of this judgment, after affording an opportunity of being heard to the petitioners.

The writ petition is disposed of with the above direction.

sd/-
S. SIRI JAGAN,
Judge

Mbs/

-True Copy-

P.A.to Judge.

WP(C) NO. 2351 of 2006

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S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

WP(C) NO. 2351 of 2006

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J U D G M E N T

DATED:01-06-2007

WP(C) NO. 2351 of 2006

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